

FEDERAL ELECTION COMMISSION

In the matter of : Martinez for Senate
U.S.-Cuba Democracy PAC

MUR No.:

5448

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

2004 APR 28 A 10:33

COMPLAINT

1. Citizens for Responsibility and Ethics in Washington hereby brings this complaint before the Federal Election Commission ("FEC") seeking an immediate FEC investigation and enforcement action against Martinez for Senate and the U.S.-Cuba Democracy PAC for direct and serious violations of federal campaign finance law.

Complainant

2. Citizens for Responsibility and Ethics in Washington is a non-profit, non-partisan organization dedicated to ensuring accountability in public officials.

Respondents

3. The U.S.-Cuba Democracy PAC is a nonconnected political committee registered under the Federal Election Campaign Act ("FECA"). 2 U.S.C. §433.

4. Martinez for Senate is the principal campaign committee for the effort to elect Mel Martinez to the United States Senate from the state of Florida. The committee is registered with the FEC under the FECA. 2 U.S.C. §433.

Factual Allegations

5. On December 22, 2003, the U.S.-Cuba Democracy PAC, an anti-Castro organization, hosted a luncheon at the Biltmore Hotel with a keynote address given by Florida Governor Jeb Bush. Mr. Martinez attended the luncheon, which was closed to the press. See Ken Thomas, *Senate bid still a real option*, Associated Press, December 23, 2004 (attached as Exhibit A).

6. The U.S.-Cuba Democracy PAC's recent April 15 Quarterly Report indicated that the PAC made an independent expenditure on behalf of an unnamed candidate in the form of a January 14, 2004 check for \$5,106.79, paid to the Biltmore Hotel for a luncheon. U.S.-Cuba Democracy Political Action Committee, FEC Form 3X, Report of Receipts and Disbursements, p.62. ("April 15 Quarterly Report," attached as Exhibit B). The April 15 Quarterly Report further indicates that the payment made to the Biltmore was not for a debt incurred during the reporting period covered in the April 15 Quarterly Report, meaning that the debt was incurred prior to January 1, 2004. (Exhibit B, p. 61).

COUNT I

7. The Federal Election Campaign Act requires PACs to report the identity of the federal candidate for whom an independent expenditure is intended. 2 U.S.C. §434(b)(6)(B)(iii). In violation of this section, the U.S.-Cuba Democracy PAC failed to identify Mr. Martinez as the candidate on whose behalf the expenditure was made. (Exhibit B at p. 62).

COUNT II

8. By claiming to have made an "independent expenditure," the U.S.-Cuba Democracy PAC concedes that at the luncheon, the PAC must have been "expressly advocating the election or defeat of a clearly identified candidate." 2 U.S.C. §431(17)(A). The fact that Mr. Martinez attended the luncheon indicates that the event was held "in concert or cooperation with or at the request or suggestion" of the candidate, his campaign committee, or its agents. As a result, the \$5,106.79 designated by the U.S.-Cuba Democracy PAC as an "independent expenditure" does not meet the statutory definition of an independent expenditure. 2 U.S.C. §431(17)(B).

COUNT III

9. The U.S.-Cuba Democracy PAC, by paying the Biltmore Hotel for the cost of the luncheon, did not make an independent expenditure, but rather an in-kind contribution to Mr. Martinez's campaign. 2 U.S.C. §431(8)(A)(I). Federal campaign law defines "contribution" to include "any gift . . . or anything of value . . ." 2 U.S.C. §431(8)(A)(I). For purposes of this section, "the term *anything of value* includes all in-kind contributions." 11 C.F.R. 100.7(a)(1)(iii). Therefore, the U.S.-Cuba Democracy PAC failed to report that it made a \$5,106.79 in-kind contribution to the Martinez for Senate campaign.

COUNT IV

10. The FECA limits PACs to contributing no more than \$5,000 per election to any one federal candidate. 2 U.S.C. §441a(a)(2)(A). The U.S.-Cuba Democracy PAC payment to the Biltmore Hotel of \$5,106.79 was, therefore, an illegal excessive in-kind contribution to the Martinez for Senate campaign.

COUNT V

11. The U.S.-Cuba Democracy PAC April 15 Quarterly Report also indicates that on March 29, 2004, the PAC made a separate contribution of \$2,000 to the Martinez for Senate campaign committee for Mr. Martinez's Senate primary. (Exhibit B at p. 55). Because the U.S.-Cuba Democracy PAC previously made an in-kind contribution to the Martinez for Senate primary campaign by paying for the luncheon at the Biltmore Hotel, and because a PAC may contribute no more than \$5,000 per election to any one candidate, this contribution was also made in violation of the FECA. 2 U.S.C. §441(a)(2)(A).

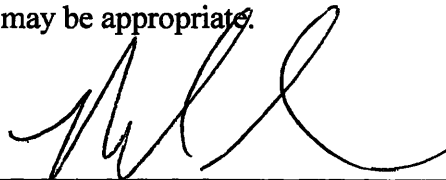
COUNT VI

12. In violation of the FECA, Martinez for Senate failed to disclose the \$5,106.79 in-kind contribution from U.S.-Cuba Democracy PAC on its April 15 Quarterly Report as required by 2 U.S.C. §434(b)(3)(B).

Conclusion

These alleged facts give rise to several questions. First, why did the U.S.-Cuba Democracy PAC fail to disclose the identity of the candidate on whose behalf the luncheon was held? Second, was the luncheon, in fact, a fundraising event for Martinez for Senate? If so, did Mr. Martinez's campaign receive any contributions at the luncheon -- held before Mr. Martinez filed his statement of candidacy -- and if he did receive contributions, were they reported accurately? These questions are best answered by an FEC investigation.

WHEREFORE, Citizens for Responsibility and Ethics in Washington requests that the Federal Election Commission conduct an investigation into these allegations, declare the respondents to have violated the federal campaign finance laws, impose sanctions appropriate to these violations and take such further action as may be appropriate.



Melanie Sloan, Executive Director
Citizens for Responsibility and Ethics in
Washington
2nd Floor
11 DuPont Circle, N.W.
Washington, D.C. 20036
(202) 588-5565

Verification

Citizens for Responsibility and Ethics in Washington, acting through Melanie Sloan, hereby verifies that the statements made in the attached Complaint are, upon information and belief, true.

Sworn pursuant to 18 U.S.C. § 1001.



Melanie Sloan

Sworn to and subscribed before me this 26th day of April, 2004.



Notary Public

Blanca M. Clayton
Notary Public, District of Columbia
My Commission Expires 04-30-2007

EXHIBIT A

25.12.03.44

Discussion Boards

Shopping

- Classifieds
- Newspaper Ads
- Herald Advertising

Services

- Contact Us
- Archives

Special Sections

- Healthcare Directory
- Who's Who in Real Estate

Estate

<TABLE cellSpacing=0
cellPadding=5
width=134 border=1>

Ski reports



Snow reports by resort
or region.

» Click here

Weather

Bradenton / Sarasota

Tampa

Miami

↑82 ↓59

↑82 ↓62

↑81 ↓67

Local Events

Yellow Pages

Discussion Boards

Maps & Directions

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Monday, Apr 19, 2004



email this



print this

Posted on Tue, Dec. 23, 2003

MEL MARTINEZ MULLS

Senate bid still a real option

KEN THOMAS

Associated Press

CORAL GABLES - Former Housing and Urban Development Secretary Mel Martinez said Monday he continues to receive encouragement for a potential U.S. Senate campaign and is moving toward entering the race after the New Year.

Martinez, a millionaire who was a personal-injury lawyer before entering politics, said: "It's all exploratory, but I think it's moving in the direction of pursuing it, and after the first of the year we'll make a final decision and make an announcement."

Martinez, a Republican from the Orlando area, said he has accepted a job with the law firm of Akerman Senterfitt and will help clients with government issues from the local to international level.

The law firm has more than 360 lawyers and offices in Miami, Fort Lauderdale, Orlando, Tampa, West Palm Beach, Jacksonville and Tallahassee.

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Martinez said "the relationship with the law firm would continue even if I were" to enter the race to replace retiring Sen. Bob Graham, a Democrat who was first elected to the Senate in 1986.

"Mel is a very good fit for us," said J. Thomas Cardwell, the firm's chairman. "He has experience in housing, federal and local government, and international affairs, all of which are areas in which the firm has significant practices."

Martinez met with members of the U.S. Cuba Democracy political action committee, a Hialeah-based anti-Castro organization, during a reception and luncheon at the Biltmore Hotel. The luncheon, with a keynote address by Gov. Jeb Bush, was closed to reporters.

Martinez, who resigned his Cabinet post this month, said his government service barred him from preparing for the race. He said he has talked with associates in recent days who could help mount a campaign. While his primary competitors have been preparing for months, Martinez said his late entry into the race would not be a handicap.

"Obviously I'll be starting from behind but that's OK," Martinez said. "Frankly, the expressions of interest that I've received from so many people around the state lead me to think there's an awful lot of people who don't feel that everybody who should be in that race is there yet."

"Even though I'll be starting from behind, that's part of what I'm exploring - is it too late? I don't think it is. Nothing points to that."

Martinez, who was born in Cuba, was Orange County's chairman before Bush tapped him as HUD secretary. His background in housing was thin, but he had close ties to the Bush family, serving as co-chairman of George W. Bush's presidential campaign in Florida.

If he announces, he would join a crowded field. Other Republicans running include former U.S. Rep. Bill McCollum of Longwood, House Speaker Johnnie Byrd of Plant City, state Sen. Dan Webster of the Orlando area, Miami lawyer Larry Klayman and former New Hampshire Sen. Bob Smith, who moved to Sarasota earlier this year.

McCollum has already received the endorsements of two prominent Cuban-Americans, U.S. Reps. Lincoln Diaz-Balart and his younger brother, Mario Diaz-Balart. Martinez said if he runs he expects to receive extensive support from the Cuban-American community in South Florida, a critical piece of the state's Republican base.

"If what I sense in this room is any indication, I feel pretty good," Martinez said before the U.S. Cuba Democracy PAC luncheon.

Democrats running include former Education Commissioner Betty Castor, Miami-Dade County Mayor Alex Penelas and U.S. Rep. Peter Deutsch of Pembroke Pines.

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EXHIBIT B

1984-02-01-03

FEC
FORM 3XREPORT OF RECEIPTS
AND DISBURSEMENTS
For Other Than An Authorized Committee

Office Use Only

1 NAME OF COMMITTEE (In full) USE FEC MAILING LABEL OR TYPE OR PRINT Example if typing, type over the lines

U.S.-Cuba Democracy Political Action Committee

ADDRESS (number and street)

1200 West 48th Street

Check if different
than previously
reported (ACC)

Hialeah

FL

33012

2. FEC IDENTIFICATION NUMBER CITY STATE ZIP CODE

C00397720

3 IS THIS REPORT NEW (N) OR x AMENDED (A)

4 TYPE OF REPORT (Choose One)	(b) Monthly Report Due On	Feb 20 (M2)	May 20 (M5)	Aug 20 (M8)	Nov 20 (M11) (Non-Election Year Only)
(a) Quarterly Reports		Mar 20 (M3)	Jun 20 (M6)	Sep 20 (M9)	Dec 20 (M12) (Non-Election Year Only)
X April 15 Quarterly Report (Q1)		Apr 20 (M4)	Jul 20 (M7)	Oct 20 (M10)	Jan 31 (YE)
July 15 Quarterly Report (Q2)	(c) 12-Day PRE-Election Report for the	Primary (12P)	General (12G)	Special (12S)	Runoff (12R)
October 15 Quarterly Report (Q3)		Convention (12C)			
January 31 Quarterly Report (YE)		Election on			in the State of
July 31 Mid-Year Report (Non-election Year Only) (MY)	(d) 30-Day Post-Election Report for the	General (30G)	Runoff (30R)	Special (30S)	
Termination Report (TER)		Election on			in the State of

5. Covering Period 01 01 2004 through 03 31 2004

I certify that I have examined this Report and to the best of my knowledge and belief it is true, correct and complete.

Type or Print Name of Treasurer Mr. Gus Machado

Signature of Treasurer Electronically Filed by Mr. Gus Machado

Date 04 14 2004

NOTE Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C. 437g

Office
Use
OnlyFEC FORM 3X
(Rev. 02/2003)

SCHEDULE B (FEC Form 3X)
ITEMIZED DISBURSEMENTS

 Use separate schedule(s)
 for each category of the
 Detailed Summary Page

 FOR LINE NUMBER
 (check only one)

PAGE 55 / 62

<input type="checkbox"/> 21b	<input type="checkbox"/> 22	<input checked="" type="checkbox"/> 23	<input type="checkbox"/> 24	<input type="checkbox"/> 25	<input type="checkbox"/> 26
<input type="checkbox"/> 27	<input type="checkbox"/> 28a	<input type="checkbox"/> 28b	<input type="checkbox"/> 28c	<input type="checkbox"/> 29	<input type="checkbox"/> 30b

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee

NAME OF COMMITTEE (in Full)

U.S.-Cuba Democracy Political Action Committee

Full Name (Last, First, Middle Initial)

A. KENDRICK MEEK CAMPAIGN FOR CONGRESS

Mailing Address 111 NW 183rd Street
Suite 325

City Miami State FL Zip Code 33189

Purpose of Disbursement

Candidate Name

Category/
Type
 Office Sought: ☒ House ☐ Senate
☐ President
 State: FL District 17
 Disbursement For: 2004
☒ Primary ☐ General
 Other (specify) ▼

Transaction ID: SB23 4952

Date of Disbursement

03 " 12 " 2004

Amount of Each Disbursement this Period

1000.00

Full Name (Last, First, Middle Initial)

B. KLINE FOR CONGRESS

Mailing Address 101 Burnsville Parkway
Suite 104

City Burnsville State MN Zip Code 55337

Purpose of Disbursement

Candidate Name

Category/
Type
 Office Sought: ☒ House ☐ Senate
☐ President
 State: MN District 02
 Disbursement For: 2004
☒ Primary ☐ General
 Other (specify) ▼

Transaction ID: SB23.4914

Date of Disbursement

02 " 24 " 2004

Amount of Each Disbursement this Period

2000.00

Full Name (Last, First, Middle Initial)

C. MARTINEZ FOR SENATE

Mailing Address PO BOX 538178

City ORLANDO State FL Zip Code 32853

Purpose of Disbursement

Candidate Name

Category/
Type
 Office Sought: ☐ House ☒ Senate
☐ President
 State: FL District 00
 Disbursement For: 2004
☒ Primary ☐ General
 Other (specify) ▼

Transaction ID: SB23.4998

Date of Disbursement

03 " 29 " 2004

Amount of Each Disbursement this Period

2000.00

SUBTOTAL of Disbursements This Page (optional)

5000.00

TOTAL This Period (last page this line number only)

SCHEDULE D (FEC Form 3X)**DEBTS AND OBLIGATIONS**

Excluding Loans

NAME OF COMMITTEE (In Full)

U S -Cuba Democracy Political Action Committee

(Use separate
schedule(s)
for each
numbered line)

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FOR LINE NUMBER
(check only one)☐ 8
☒ 10A Full Name (Last, First Middle Initial) of Debtor or Creditor
Biltmore HotelNature of Debt (Purpose)
Luncheon Costs

Mailing Address 1200 Anastasia Avenue

City State ZIP Code
Coral Gables FL 33134

Outstanding Balance Beginning This Period

Transaction ID: SD10 4519

5108.79

Amount Incurred This Period

Payment This Period

Outstanding Balance at Close of This Period

0.00

5108.79

0.00

B Full Name (Last, First Middle Initial) of Debtor or Creditor
Stephens and Johnson LLPNature of Debt (Purpose)
Legal Services

Mailing Address 1330 Connecticut Avenue

City State ZIP Code
Washington DC 20036

Outstanding Balance Beginning This Period

Transaction ID: SD10.4132

15262.50

Amount Incurred This Period

Payment This Period

Outstanding Balance at Close of This Period

0.00

0.00

15262.50

1) SUBTOTALS This Period This Page (optional)	15262.50
2) TOTALS This Period (last page this line number only)	15262.50
3) TOTALS OUTSTANDING LOANS from Schedule C (last page only)	
4) ADD 2) and 3) and carry forward to appropriate line of Summary Page (last page only)	

SCHEDULE E (FEC Form 3X)
ITEMIZED INDEPENDENT EXPENDITURES

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FOR LINE 24 OF FORM 3X

NAME OF COMMITTEE (In Full)
 U S-Cuba Democracy Political Action Committee

FED IDENTIFICATION NUMBER

C C00387720

Check if 24-hour notice 48-hour notice

Full Name (Last First, Middle Initial) of Payee
 Billmore Hotel

Date

M D Y
01 14 2004

Mailing Address
 1200 Anastasia Avenue

Amount

5106 79

City State Zip Code
 Coral Gables FL 33134

Transaction ID: SE24 5054

Purpose of Expenditure Category/Type
 Luncheon Costs

Office Sought House State _____
 Senate District _____
 Presidential

Name of Federal Candidate supported or Opposed by expenditure

Check One ☒ Support ☐ Oppose

Calendar Year-To-Date Per Election
 for Office Sought

5106 79

Disbursement For: Primary General
 Other (specify) _____

(a) SUBTOTAL of Itemized Independent Expenditures	5106.79
(b) SUBTOTAL of Unitemized Independent Expenditures	0.00
(c) TOTAL Independent Expenditures	5106.79

Under penalty of perjury I certify that the independent expenditures reported herein were not made in cooperation, consultation, or concert with, or at the request or suggestion of, any candidate or authorized committee or agent of either, or (if the reporting entity is not a political party committee) any political party committee or its agent.

Date

M D Y
01 14 2004

Signature